

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 241, Page 24,
2 Section 389.591, Line 9, by inserting after all of said Section and Line the following:

3
4 "393.320. 1. As used in this section, the following terms mean:

5 (1) "Large water public utility", a public utility that regularly provides water service or sewer
6 service to more than eight thousand customer connections and that provides safe and adequate
7 service but shall not include a sewer district established under Section 30(a), Article VI of the
8 Missouri Constitution, sewer districts established under the provisions of chapter 204, 249, or 250,
9 public water supply districts established under the provisions of chapter 247, or municipalities that
10 own water or sewer systems;

11 (2) "Small water utility", a public utility that regularly provides water service or sewer
12 service to eight thousand or fewer customer connections; a water district established under the
13 provisions of chapter 247 that regularly provides water or sewer service to eight thousand or fewer
14 customer connections; a sewer district established under the provisions of chapter 204, 249, or 250
15 that regularly provides sewer service to eight thousand or fewer customer connections; or a water
16 system or sewer system owned by a municipality that regularly provides water service or sewer
17 service to eight thousand or fewer customer connections; and all other entities that regularly provide
18 water service or sewer service to eight thousand or fewer customer connections.

19 2. The procedures contained in this section may be chosen by a large water public utility, and
20 if so chosen shall be used by the public service commission to establish the ratemaking rate base of a
21 small water utility during an acquisition.

22 3. (1) An appraisal shall be performed by three appraisers. One appraiser shall be appointed
23 by the small water utility, one appraiser shall be appointed by the large water public utility, and the
24 third appraiser shall be appointed by the two appraisers so appointed. Each of the appraisers shall be
25 a disinterested person who is a certified general appraiser under chapter 339.

26 (2) The appraisers shall:

27 (a) Jointly prepare an appraisal of the fair market value of the water system and/or sewer
28 system. The determination of fair market value shall be in accordance with Missouri law and with
29 the Uniform Standards of Professional Appraisal Practice; and

30 (b) Return their appraisal, in writing, to the small water utility and large water public utility
31 in a reasonable and timely manner.

32 (3) If all three appraisers cannot agree as to the appraised value, the appraisal, when signed

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1 by two of the appraisers, constitutes a good and valid appraisal.

2 4. Nothing in this section shall prohibit a party from declining to proceed with an acquisition
3 or be deemed as establishing the final purchase price of an acquisition.

4 5. (1) The lesser of the purchase price or the appraised value, together with the reasonable
5 and prudent transaction, closing, and transition costs incurred by the large water public utility, shall
6 constitute the ratemaking rate base for the small water utility as acquired by the acquiring large water
7 public utility; provided, however, that if the small water utility is a public utility subject to chapter
8 386 and the small water utility completed a rate case prior to the acquisition, the public service
9 commission may select as the ratemaking rate base for the small water utility as acquired by the
10 acquiring large water public utility a ratemaking rate base in between:

11 (a) The lesser of the purchase price or the appraised value, together with the reasonable and
12 prudent transaction, closing, and transition costs incurred by the large water public utility unless such
13 transaction, closing, and transition costs are elsewhere recoverable in rates; and

14 (b) The ratemaking rate base of the small water utility as ordered by the public service
15 commission in the small water utility's last previous rate case as adjusted by improvements and
16 depreciation reserve since the previous rate case together with the transaction, closing, and transition
17 costs incurred by the large water public utility unless such transaction, closing, and transition costs
18 are elsewhere recoverable in rates. If the small water utility and large water public utility proceed
19 with the sale, any past-due fees due to the state from the small water utility or its customers under
20 chapter 640 or 644 shall be resolved prior to the transfer of ownership or the liability for such
21 past-due fees becomes the responsibility of the large water public utility. Such fees shall not be
22 included in the large water public utility's rate base.

23 (2) The public service commission shall issue its decision establishing the ratemaking rate
24 base of the small water utility in its order approving the acquisition.

25 6. Upon the date of the acquisition of a small water utility by a large water public utility,
26 whether or not the procedures for establishing ratemaking rate base provided by this section have
27 been utilized, the small water utility shall, for ratemaking purposes, become part of an existing
28 service area, as defined by the public service commission, of the acquiring large water public utility
29 that is either contiguous to the small water utility, the closest geographically to the small water
30 utility, or best suited due to operational or other factors. This consolidation shall be approved by the
31 public service commission in its order approving the acquisition.

32 7. Any new permit issued pursuant to chapters 640 and 644, when a small water utility is
33 acquired by a large water public utility, shall include a plan to resolve all outstanding permit
34 compliance issues. After the transfer of ownership, the acquiring large public water utility shall
35 continue providing service to all customers that were served by the small water utility at the time of
36 sale.

37 [7.] 8. This section is intended for the specific and unique purpose of determining the
38 ratemaking rate base of small water utilities and shall be exclusively applied to large water public
39 utilities in the acquisition of a small water utility. This section is not intended to apply beyond its
40 specific purpose and shall not be construed in any manner to apply to electric corporations, natural
41 gas corporations, or any other utility regulated by the public service commission.

1 393.1075. 1. This section shall be known as the "Missouri Energy Efficiency Investment
2 Act".

3 2. As used in this section, the following terms shall mean:

4 (1) "Commission", the Missouri public service commission;

5 (2) "Demand response", measures that decrease peak demand or shift demand to off-peak
6 periods;

7 (3) "Demand-side program", any program conducted by the utility to modify the net
8 consumption of electricity on the retail customer's side of the electric meter, including but not limited
9 to energy efficiency measures, load management, demand response, and interruptible or curtailable
10 load;

11 (4) "Energy efficiency", measures that reduce the amount of electricity required to achieve a
12 given end use;

13 (5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced
14 charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under
15 certain specified conditions;

16 (6) "Total resource cost test", a test that compares the sum of avoided utility costs and
17 avoided probable environmental compliance costs to the sum of all incremental costs of end-use
18 measures that are implemented due to the program, as defined by the commission in rules.

19 3. It shall be the policy of the state to value demand-side investments equal to traditional
20 investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent
21 costs of delivering cost-effective demand-side programs. In support of this policy, the commission
22 shall:

23 (1) Provide timely cost recovery for utilities;

24 (2) Ensure that utility financial incentives are aligned with helping customers use energy
25 more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy
26 more efficiently; and

27 (3) Provide timely earnings opportunities associated with cost-effective measurable and
28 verifiable efficiency savings.

29 4. The commission shall permit electric corporations to implement commission-approved
30 demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective
31 demand-side savings. Recovery for such programs shall not be permitted unless the programs are
32 approved by the commission, result in energy or demand savings and are beneficial to all customers
33 in the customer class in which the programs are proposed, regardless of whether the programs are
34 utilized by all customers. The commission shall consider the total resource cost test a preferred
35 cost-effectiveness test. Programs targeted to low-income customers or general education campaigns
36 do not need to meet a cost-effectiveness test, so long as the commission determines that the program
37 or campaign is in the public interest. Nothing herein shall preclude the approval of demand-side
38 programs that do not meet the test if the costs of the program above the level determined to be
39 cost-effective are funded by the customers participating in the program or through tax or other
40 governmental credits or incentives specifically designed for that purpose.

41 5. To comply with this section the commission may develop cost recovery mechanisms to

1 further encourage investments in demand-side programs including, in combination and without
2 limitation: capitalization of investments in and expenditures for demand-side programs, rate design
3 modifications, accelerated depreciation on demand-side investments, and allowing the utility to
4 retain a portion of the net benefits of a demand-side program for its shareholders. In setting rates the
5 commission shall fairly apportion the costs and benefits of demand-side programs to each customer
6 class except as provided for in subsection 6 of this section. Prior to approving a rate design
7 modification associated with demand-side cost recovery, the commission shall conclude a docket
8 studying the effects thereof and promulgate an appropriate rule.

9 6. The commission may reduce or exempt allocation of demand-side expenditures to
10 low-income classes, as defined in an appropriate rate proceeding, as a subclass of residential service.

11 7. Provided that the customer has notified the electric corporation that the customer elects
12 not to participate in demand-side measures offered by an electrical corporation, none of the costs of
13 demand-side measures of an electric corporation offered under this section or by any other authority,
14 and no other charges implemented in accordance with this section, shall be assigned to any account
15 of any customer, including its affiliates and subsidiaries, meeting one or more of the following
16 criteria:

17 (1) The customer has one or more accounts within the service territory of the electrical
18 corporation that has a demand of five thousand kilowatts or more;

19 (2) The customer operates an interstate pipeline pumping station, regardless of size; or

20 (3) The customer has accounts within the service territory of the electrical corporation that
21 have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the customer has
22 a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of
23 savings at least equal to those expected from utility-provided programs.

24 8. Customers that have notified the electrical corporation that they do not wish to participate
25 in demand-side programs under this section shall not subsequently be eligible to participate in
26 demand-side programs except under guidelines established by the commission in rulemaking.

27 9. Customers who participate in demand-side programs initiated after August 1, 2009, shall
28 be required to participate in program funding for a period of time to be established by the
29 commission in rulemaking.

30 10. Customers electing not to participate in an electric corporation's demand-side programs
31 under this section shall still be allowed to participate in interruptible or curtailable rate schedules or
32 tariffs offered by the electric corporation.

33 11. The commission shall provide oversight and may adopt rules and procedures and
34 approve corporation-specific settlements and tariff provisions, independent evaluation of
35 demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this
36 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under
37 the authority delegated in this section shall become effective only if it complies with and is subject to
38 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
39 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536
40 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held
41 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after

1 August 28, 2009, shall be invalid and void.

2 12. Each electric corporation shall submit an annual report to the commission describing the
3 demand-side programs implemented by the utility in the previous year. The report shall document
4 program expenditures, including incentive payments, peak demand and energy savings impacts and
5 the techniques used to estimate those impacts, avoided costs and the techniques used to estimate
6 those costs, the estimated cost-effectiveness of the demand-side programs, and the net economic
7 benefits of the demand-side programs.

8 13. Charges attributable to demand-side programs under this section shall be clearly shown
9 as a separate line item on bills to the electrical corporation's customers.

10 14. (1) Any customer of an electrical corporation who has received a state tax credit under
11 sections 135.350 to 135.362 or under sections 253.545 to 253.561 shall not be eligible for
12 participation in any demand-side program offered by an electrical corporation under this section if
13 such program offers a monetary incentive to the customer, however, this exclusion from eligibility
14 shall not apply to low-income programs and participants in such programs.

15 (2) As a condition of participation in any demand-side program offered by an electrical
16 corporation under this section when such program offers a monetary incentive to the customer, the
17 commission shall develop rules that require documentation to be provided by the customer to the
18 electrical corporation to show that the customer has not received a tax credit listed in subdivision (1)
19 of this subsection.

20 (3) The penalty for a customer who provides false documentation under subdivision (2) of
21 this subsection shall be a class A misdemeanor.

22 15. The commission shall develop rules that provide for disclosure of participants in all
23 demand-side programs offered by electrical corporations under this section when such programs
24 provide monetary incentives to the customer. The disclosure required by this subsection may
25 include, but not be limited to, the following: the name of the participant, or the names of the
26 principles if for a company, the property address, and the amount of the monetary incentive
27 received."; and

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29 Further amend said bill by amending the title, enacting clause, and intersectional references
30 accordingly.